

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 318 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1-5 No

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VP SONI

Versus

BOARD OF TRUSTEES OF PORT OF KANDLA

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Appearance:

MR KETAN A DAVE for Petitioner

MR SR BRAHMBHATT for Respondent No. 1

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 23/04/98

ORAL JUDGEMENT

This revision application is directed against the judgement and order dated 7.2.1992 passed by the District Judge, Kachchh at Bhuj whereby the learned judge allowed the appeal and the order of the learned Civil Judge (J.D.), Gandhidham in R.C.S. No. 96 of 1990 is quashed and set aside.

The necessary facts are that the

plaintiff-petitioner, senior clerk with the defendant Kandla Port Trust Board sought voluntary retirement by notice dated 28.4.1989 with effect from 31.7.1989. He was permitted to retire with effect from 31.7.1989 by order dated 10.5.1989. However, the said order was withdrawn under communication dated 17.7.1989 and on the same day he was charged of the allegation of disproportionate wealth. The plaintiff-petitioner filed the suit. Along with the suit he also filed an application Exh. 5 under Order 39 Rule 5 which was granted by the trial court restraining the respondent from holding any enquiry. A further direction was given to allow the plaintiff petitioner to attend his duties. The defendant Board of Trustees of Kandla Port Trust preferred an appeal against the said order. The appellate court held that the withdrawal of permission of premature retirement prior to the effective date of retirement in order to facilitate the departmental enquiry cannot be said to be illegal or improper. In view of this, the learned judge by the impugned order quashed and set aside the order passed by the trial court below Exh. 5.

Various contentions have been raised challenging the said order. However, looking to the facts and circumstances of the case and particularly the fact that the suit filed in the year 1990 is still pending before the trial court for the reason that the revision application filed before this court is pending since 1992, I consider it appropriate that instead of deciding this application on merit to direct the trial court to decide the suit itself expeditiously. Consequently without entering into the merits of the case, I direct that the trial court to decide the Civil Suit No. 96/90 within a period of six months from the date of receipt of the writ i.e. by 31.10.1998. In case there is any difficulty for the trial court to dispose of the said suit by the said date, it will be incumbent upon the said court to approach this court well in advance for extension of time. Time schedule provided by this court shall be followed punctually. The Civil Revision application stands disposed of accordingly.

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